

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05CV314-03-MU

DUNCAN J. MCNEIL,)
)
Plaintiff,)
)
v.)
)
UNITED STATES, AND ITS AGENCIES)
AND OFFICERS; CLERK - WDNC;)
CLERK - US BANKRUPTCY COURT -)
WDNC; US ATTORNEY-WDNC;)
OFFICE OF THE US TRUSTEE-WDNC;)
US MARSHALL SERVICE-WDNC; FBI-)
WDNC; IRS-WDNC; SECRET SERVICE-)
WDNC AND THEIR OFFICERS.)
)
Defendants.)
)

ORDER

THIS MATTER comes before the Court on initial review of Plaintiff's Complaint filed July 6, 2005 (Document No. 1.)

Plaintiff alleges a variety of unrelated incidents in his Complaint against various federal officers and agencies. He complains that he is in "imminent danger of serious physical injury due to the conditions of [his] unlawful incarceration and ongoing denial of required medical care by my captors", however he is not suing any medical person or person connected with the Spokane County Jail in which he is housed. He complains that he is unlawfully incarcerated in Spokane, WA in retaliation of having exercised his constitutionally protected rights, however he does not explain how the named defendants have anything to do with his incarceration.

Plaintiff spends several pages of his Complaint talking about foreign judgments in which he

alleges that he is the lawful owner and trustee. He lists five judgments from state and federal courts and that based upon these judgments a stipulated order re: liability and damages was entered on January 30, 2001 (which he attached to his Complaint). The Stipulated Order Re: Liability and Damages is between the Plaintiff and Counter-Claimants Citizens Against Bankruptcy and Real Estate Fraud and was entered in favor of the Plaintiff and against Counter-Claimants jointly and severally. Plaintiff complains that the “Defendants have a constitutional duty to grant full faith and credit to the ‘foreign judgments’ and the ‘attached execution’” pursuant to the U.S. Constitution, however he does not explain what the Defendants have failed to do with respect to his foreign judgment. He also does not explain what attempts he has made with respect to these foreign judgments. Plaintiff further alleges that the Defendants have breached their duties with respect to the foreign judgments, but again, he does not explain in what way the United States, the Clerk of Court for the WDNC, the Clerk of Court for the Bankruptcy Court in the WDNC, the United States Attorney for the WDNC, the US Trustee for the WDNC, the FBI in the WDNC and the US Marshall in the WDNC, the Secret Service in the WDNC and the IRS in the WDNC have breached their duties with respect to these judgments. Plaintiff claims that the Defendants have “failed and refused to pay Plaintiff the liquidated damages or liquidated compensation as established by the ‘foreign judgments’ and the ‘attached execution.’” However, it is not clear to this Court how the Stipulated Order Re: Liability and Damages between the Plaintiff and the Citizens Against Bankruptcy & Real Estate Fraud has anything to do with any of the named Defendants in this action. The Plaintiff fails to explain it and the Court is not obligated to infer information not contained in the Complaint. Although it is true that the Court must construe the Complaint in the light most favorable to the plaintiff, Hishon v. King & Spaulding, 467 U.S. 69, 73 (1984), the Court need not assume that a

plaintiff “can prove facts that [are] not alleged or that defendants have violated the . . . law in ways that have not been alleged.” Estate Constr. Co. V. Miller & Smith Holding Co., 14 F.3d 213, 221 (4th Cir. 1994).

Plaintiff’s Complaint is unintelligible and as written fails to state a cause of action against the United States or any of its Officers or Agencies.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff’s Complaint is Dismissed for failure to state a claim for relief. Plaintiff’s motion for electronic filing access to court and for a waiver of pacer fee and electronic filing fees; for appointment of counsel and for service of summons and complaint by the clerk and the US Marshall is denied as moot.

Signed: August 5, 2005



Graham C. Mullen
Chief United States District Judge

